

**REMARKS**

**Status of the Claims**

The final Office Action mailed August 26, 2009 noted that claims 1-21 and 23-33 were pending, rejected claims 1-21, 23-25, and 27-33 and allowed claim 26. Additionally, the Advisory Action mailed November 3, 2009 noted that the Amendment After Final Rejection filed October 26, 2009 "will be entered for purposes of appeal," but that it did not place the application into condition for allowance.

This Amendment is supplemental to the Amendment After Final Rejection filed October 26, 2009. Claims 1, 5, 12, 15, 19, 20, 21, 27, 28, 31, 32, and 33 are amended. No claims are cancelled. No new claims are added. No new matter is believed to be presented.

A Request for Continued Examination is submitted herewith. It is respectfully submitted that claims 1-21, 23 and 25-33 are pending and under consideration.

**Rejections under 35 U.S.C. § 103**

The Office Action, on page 5, rejected claims 1-9, 11-14, 20-21, 23-24, 27-29, 31 and 33 under 35 U.S.C. § 103(a) as being unpatentable over Durrani and Iwema. The Office Action, on page 11, rejected claims 25 and 30 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Keely Jr. The Office Action, on page 12, rejected claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Kurtenbach. The Office Action, on page 13, rejected claims 15-18 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema, and Anderson. The Office Action, on page 16, rejected claim 19 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema, Anderson, and Kurtenbach. The Office Action, on page 18, rejected claim 32 under 35 U.S.C. § 103(a) as being unpatentable over Durrani, Iwema and Sowden. These rejections are respectfully traversed below.

Claim 1 is amended to clarify distinguishing features not discussed by Durrani and Iwema, taken alone and in combination. In particular claim 1 recites "controls initiating an action, located in the interface area, **all the controls visible and accessible at all times**, and accessible via the natural motion." The Office Action cited Figure 3, 320 of Durrani as showing controls that initiate an action. However, as noted in Durrani in column 3, lines 42-61, only a part of a graphical text wheel is shown displayed at any one time. A user must use a selection device to rotate the graphical text wheel, thereby displaying another part of the text wheel. The Advisory Action acknowledged that part of Durrani's text wheel is "hidden" and asserted that because

Durrani's menu is a circle that a radius is responsive to the underlying menu. However, Durrani does not discuss "all the controls visible and accessible at all times." In light of the above discussion, it is respectfully submitted that claim 1 patentably distinguishes over Durrani and Iwema.

Independent claim 5 patentably distinguishes over Durrani and Iwema, taken alone and in combination for the reasons discussed above because nothing cited or found discusses "controls located in the interface area and accessible via the natural motion, all the controls visible and accessible at all times, wherein an interface location responsive to the natural motion of the user is a lower corner of a display area."

Independent claim 12 patentably distinguishes over Durrani and Iwema, taken alone and in combination because nothing cited or found discusses "having graphics for controls visible and accessible at all times and arranged along the interface arc."

Independent claim 20 patentably distinguishes over Durrani and Iwema, taken alone and in combination because nothing cited or found discusses "**a radius responsive to an underlying menu activatable via one of the controls** and where the arc starts near a first display edge and ends near a second display edge and arc is substantially perpendicular to a natural motion path of the natural motion" and "mapping visible and accessible at all times controls of a persistent graphical user interface in an arc shape." The rejection simply refers to the rejection of claims 1 and 12 and nothing cited or found in Durrani and Iwema discusses an underlying menu activatable via one of the controls, not recited in claims 1 and 12.

Independent claim 21 patentably distinguishes over Durrani and Iwema, taken alone and in combination because nothing cited or found discusses "a radius responsive to an underlying menu activatable via one of the controls and where the arc starts near a first display edge and ends near a second display edge and is substantially perpendicular to a natural motion path of the natural motion" and "mapping visible and accessible at all times controls of a graphical user interface in an arc shape." The rejection simply notes that claim 21 is rejected under the same rationale as claim 5. However, claim 21 recites very differently from claim 5 and nothing cited or found in Durrani and Iwema discusses an underlying menu activatable via one of the controls.

Independent claim 28 patentably distinguishes over Durrani and Iwema, taken alone and in combination because nothing cited or found discusses "positioning a persistent graphical user interface of multiple controls visible and accessible at all times."

Independent claim 31 patentably distinguishes over Durrani and Iwema, taken alone and

in combination because nothing cited or found discusses "controls visible and accessible at all times, located in the interface graphic and accessible via the natural motion."

Independent claim 33 patentably distinguishes over Durrani and Iwema, taken alone and in combination because nothing cited or found discusses "controls initiating an action, located in the interface area and visible and accessible at all times and accessible via the natural motion."

Independent claim 15 patentably distinguishes over Durrani, Iwema, and Anderson, taken alone and in combination because nothing cited or found discusses "controls visible and accessible at all times and located essentially in an arc in the graphic where the arc is substantially perpendicular to a natural motion path of the natural motion."

Independent claim 19 patentably distinguishes over Durrani, Iwema, Anderson, and Kurtenbach taken alone and in combination because nothing cited or found discusses "a radius of the arc shaped curve is at least a radius of a menu of one of the controls" and "controls visible and accessible at all times and located essentially in an arc in the graphic where the arc is substantially perpendicular to a natural motion path of the natural motion and activated by the stylus."

Independent claim 32 patentably distinguishes over Durrani, Iwema and Sowden, taken alone and in combination, because nothing cited or found discusses "controls initiating an action, located in the interface area and visible and accessible at all times and accessible via the first and second natural motion." The Office Action on page 18 also admitted that Durrani and Iwema do not teach two graphical user interfaces, one in the lower right hand corner and one in the lower left hand corner. Sowden's input devices 103 in Figure 1 are not controls located in the interface area and thus do not cure the deficiencies of Durrani and Iwema.

The Office Action, on page 15, in its rejection of claim 16, notes that claim 16 is rejected over Pitroda, Miyashita, Selker, and Anderson. The Office Action, on page 17, in its rejection of claim 19, notes that claim 19 is rejected over Pitroda, Miyashita, Selker, Anderson, and Kurtenbach. However, these references are now longer cited or applicable. Clarification is respectfully requested in the next Office Action.

The dependent claims depend from the above-discussed independent claims and are patentable over the cited references for the reasons discussed above. The dependent claims also recite additional features not taught or suggested by the cited references. For example, claim 7 recites "a radius of the arc shaped curve is at least a radius of a menu of one of the controls." The Office Action cited Figure 3 of Durrani. However, each letter in Figure 3 does not have "a menu associated with the controls." There is not a menu discussed or depicted

associated with the letters in the text entry wheel. As a non-limiting example, see Figure 13 of this Application. Thus, Figure 3 of Durrani combined with Iwema cannot render claim 8 obvious. Nothing in Figure 3 of Durrani teaches “a control closest to a display area is positioned along the curve at least a radius of a menu of the control from a display edge.” Nothing in Figure 3 of Durrani shows that a control is positioned at least a radius of a menu of the control from a display edge because Durrani does not show a menu of the control. Additionally, claim 9 patentably distinguishes over Durrani and Iwema for the same reasons as in claims 7 and 8.

With respect to claim 16, the Office Action admitted that Durrani, Iwema, and Anderson do not teach the locations of each control in the claim, but then the Office Action asserted that “[a]pplicants have not disclosed that the particular positioning of the menu items solves any stated problem, provides any advantages, or used for any particular purpose.” This is not a requirement of title 35 of the United States Code, but merely appears to be a request posed by the Office Action. A claim need only be new, useful, novel, and nonobvious. *In re Japiske* is inapplicable in this instance because as admitted, none of the references provide any location whatsoever. Further, the Office Action cannot assert that a change in location would be within the level of ordinary skill in the art because the Office Action admitted that the references failed to discuss any location. Thus, as admitted by the Office Action, claim 16 patentably distinguishes over Durrani, Iwema, and Anderson and is allowable. Furthermore, the Office Action cites to references which were previously traversed.

With respect to claim 25, Keely Jr. does not discuss “displaying a menu and performing an interaction upon a dwell input.” Keely Jr. does not discuss and is entirely silent regarding a dwell input. Column 7, lines 50-57 of Keely Jr. do not discuss a dwell input as asserted by the Office Action on page 12. This rejection is derived not from Keely Jr. but rather on impermissible hindsight because nothing in Keely Jr. discusses a dwell.

It is submitted that the dependent claims are independently patentable over the cited references.

Withdrawal of the rejections is respectfully requested.

### **Allowable Subject Matter**

The Office Action, on pages 18-19 noted that claim 26 is allowable.

**Summary**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

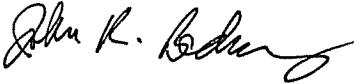
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 1-26-10

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